



BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

RIN 0648-BF42

Fisheries of the Exclusive Economic Zone Off Alaska; Gulf of Alaska Management Area; Amendment 101

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of availability of amendment to fishery management plan; request for comments.

SUMMARY: The North Pacific Fishery Management Council has submitted Amendment 101 to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) to the Secretary of Commerce for review. Amendment 101 to the FMP would authorize the use of longline pot gear in the sablefish individual fishing quota (IFQ) fishery in the Gulf of Alaska (GOA). Amendment 101 is necessary to improve efficiency and provide economic benefits for the sablefish IFQ fleet and minimize potential fishery interactions with whales and seabirds. Amendment 101 is intended to promote the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act, the FMP, and other applicable laws.

DATES: Submit comments on or before *[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]*.

ADDRESSES: You may submit comments on this document, identified by NOAA-

NMFS-2015-0126, by any one of the following methods:

- Electronic Submission: Submit all electronic public comments via the Federal e-Rulemaking portal. Go to www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2015-0126, click the “Comment Now!” icon, complete the required fields, and enter or attach your comments.
- Mail: Submit written comments to Glenn Merrill, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS, Attn: Ellen Sebastian. Mail comments to P. O. Box 21668, Juneau, AK 99802.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered. All comments received are a part of the public record and will generally be posted for public viewing on <http://www.regulations.gov> without change. All personal identifying information (e.g., name, address) confidential business information, or otherwise sensitive information voluntarily submitted by the commenter will be publicly accessible. NMFS will accept anonymous comments (enter N/A in the required fields, if you wish to remain anonymous).

Electronic copies of Amendment 101 to the FMP, the Environmental Assessment/Regulatory Impact Review/Initial Regulatory Flexibility Analysis prepared for this action (collectively, Analysis), and the Finding of No Significant Impact prepared for this action may be obtained from <http://www.regulations.gov> or from the NMFS Alaska Region website at <http://www.alaskafisheries/noaa.gov>.

FOR FURTHER INFORMATION CONTACT: Rachel Baker, 907-586-7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fisheries in the Exclusive Economic Zone of the GOA under the FMP. The North Pacific Fishery Management Council (Council) prepared the FMP under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) (16 U.S.C. 1801 *et seq.*). Regulations implementing the FMP appear at 50 CFR part 679.

The Magnuson-Stevens Act requires that each regional fishery management council submit any fishery management plan amendment it prepares to NMFS for review and approval, disapproval, or partial approval by the Secretary of Commerce (Secretary). The Magnuson-Stevens Act also requires that NMFS, upon receiving a fishery management plan amendment, immediately publish a document in the **Federal Register** announcing that the amendment is available for public review and comment. This document announces that proposed Amendment 101 to the FMP is available for public review and comment.

Amendment 101 to the FMP would revise the IFQ Program for sablefish fisheries in the GOA. The IFQ Program for the fixed-gear commercial fisheries for sablefish and halibut in waters in and off Alaska is a limited access privilege program implemented in 1995 (58 FR 59375, November 9, 1993). The IFQ Program limits access to the sablefish and halibut fisheries to those persons holding quota share in specific management areas. The amount of halibut and sablefish that each quota share holder may harvest is calculated annually and is issued as IFQ in pounds.

The IFQ Program for Pacific halibut is implemented under the authority of the Northern Pacific Halibut Act of 1982. The Council does not have a halibut fishery management plan.

Amendment 101 would apply to catcher vessels and catcher/processors fishing for sablefish IFQ in the GOA. The sablefish regulatory areas defined for sablefish in the GOA are the Southeast Outside District of the GOA, West Yakutat District of the GOA, Central GOA, and Western GOA. The sablefish regulatory areas are defined and shown in Figure 14 to part 679.

The FMP currently authorizes only longline gear for the GOA sablefish IFQ fishery. Longline gear includes hook-and-line, jig, troll, and handline gear. Fishery participants have used longline hook-and-line gear (hook-and-line gear) to harvest sablefish IFQ in the GOA because it is more efficient than jig, troll, or handline gear. However, various species of whales can remove or damage sablefish caught on hook-and-line gear (depredation). Depredation occurs with hook-and-line gear because sablefish are captured on hooks that lie on the ocean floor. Whales can completely remove or damage sablefish captured on these hooks before the gear is retrieved. Longline pot gear is an efficient gear and prevents depredation because whales cannot remove or damage sablefish enclosed in a pot.

Longline pot gear was historically used to harvest sablefish in the GOA. However, under the open access management program race for fish that existed prior to the implementation of the IFQ Program, some vessel operators deployed hook-and-line gear, while other vessel operators deployed pot gear in the same fishing areas. This resulted in gear conflicts and loss of gear on the fishing grounds. The longline pot groundline is heavier and stronger than the groundline used to attach the series of hooks on hook-and-line gear. If longline pot gear is set over previously deployed hook-and-line gear, the weaker hook-and-line gear can be damaged or lost as it is being retrieved.

The Council and NMFS have not received reports of gear conflicts between hook-and-line gear. In 1986, NMFS implemented a phased-in prohibition of pot gear in the GOA sablefish fishery (50 FR 43193, October 24, 1985) to minimize potential gear conflicts that occurred during the open access management fishery and prior to the implementation of the IFQ Program.

Beginning in 2009, the Council and NMFS received reports from sablefish IFQ fisherman that depredation on hook-and-line gear was adversely impacting the sablefish IFQ fleet. Depredation can result in lost catch, additional time waiting for whales to leave fishing grounds before hauling gear, and additional time and fuel spent relocating gear to avoid whales. Depredation also has negative consequences for whales through increased risk of vessel strike, gear entanglement, and altered foraging strategies. While depredation events are difficult to observe because they take place on the ocean floor in deep water, fishery participants have testified to the Council that depredation continues to be a major cost to the GOA sablefish IFQ fishery, and appears to be occurring more frequently.

Industry groups have tested a variety of methods to deter whales from preying on fish caught on hook-and-line gear, such as gear modifications and acoustic decoys, but these methods have not substantially reduced the problem of depredation in the GOA sablefish IFQ fishery.

In April 2015, the Council recommended Amendment 101 to authorize longline pot gear for use in the sablefish IFQ fishery in the GOA. Amendment 101 would amend Sections 3.2.3.4.3.3.1, 3.4.1, 3.4.2, 3.6.2, 3.7.1.1, 3.7.1.7, and 4.1.2.3 of the FMP to authorize longline pot gear to harvest sablefish in the GOA sablefish IFQ fishery.

Amendment 101 would make minor editorial revisions to the Executive Summary and Appendix A of the FMP to list and describe Amendment 101.

Amendment 101 would authorize, but not require, a harvester to use longline pot gear in the GOA sablefish IFQ fishery. Providing fishermen with the opportunity to use longline pot gear would reduce the adverse impacts of depredation for fishermen who choose to use longline pot gear.

Amendment 101 is necessary to 1) improve efficiency in harvesting sablefish IFQ and reduce adverse economic impacts on harvesters that occur from depredation, and 2) reduce sablefish IFQ fishery interactions with whales and seabirds.

Amendment 101 would reduce the adverse impacts of depredation for those harvesters who choose to switch to longline pot gear from hook-and-line gear. These harvesters would benefit from reduced operating costs and reduced fishing time needed to harvest sablefish IFQ. Amendment 101 would provide individual harvesters with the option to use longline pot gear if they determine it is appropriate for their fishing operation. Amendment 101 would reduce the associated risks to whales including vessel strikes, gear entanglement, and altered foraging strategies. The Analysis for Amendment 101 indicates that authorizing longline pot gear is expected to have a positive effect on killer whales and sperm whales from reduced interactions with fishing gear.

In recommending Amendment 101, the Council recognized that pot gear had previously been authorized in the GOA sablefish fishery, but its use was prohibited prior to implementation of the IFQ Program due to conflicts between hook-and-line and pot gear on the fishing grounds. The Council and NMFS agree that authorizing longline pot gear in the GOA sablefish IFQ fishery under Amendment 101 is appropriate because the

fishery is managed under the IFQ Program. The IFQ Program provides fishermen with substantially more flexibility on when and where to harvest sablefish compared to the open access management program prior to implementation of the IFQ Program. The IFQ Program makes it unlikely that hook-and-line and longline pot gear conflicts would occur or that fishing grounds would be preempted for extended periods in the same manner previously analyzed by the Council and NMFS.

Amendment 101 would reduce fishing interactions with seabirds. Fishing interactions can result in direct mortality for seabirds if they become entangled in fishing gear or strike the vessel or fishing gear while flying. Hook-and-line gear has the greatest impact on seabirds relative to other fishing gear. Although seabird mortality in the GOA sablefish IFQ fishery makes up a very small portion of total estimated seabird mortality from fisheries in Alaska, the Analysis determined that Amendment 101 would reduce incidental catch of seabirds in the GOA sablefish IFQ fishery. Amendment 101 would provide vessel operators with the opportunity to use longline pot gear, which has a lower rate of incidental catch of seabirds than hook-and-line gear.

NMFS is soliciting public comments on proposed Amendment 101 through the end of the comment period (see **DATES**). NMFS intends to publish in the **Federal Register** and seek public comment on a proposed rule that implements Amendment 101 following NMFS' evaluation of the proposed rule under the Magnuson-Stevens Act. NMFS will consider all comments received by the end of the comment period on Amendment 101, whether specifically directed to the FMP amendment or its implementing proposed rule, in the approval/disapproval decision on Amendment 101. NMFS will not consider comments received after that date in the approval/disapproval

decision on the amendment. To be considered, comments must be received, not just postmarked or otherwise transmitted, by the close of business on the last day of the comment period.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: August 3, 2016

Emily H. Menashes,
Acting Director,
Office of Sustainable Fisheries,
National Marine Fisheries Service.

